

V. REMARKS

Entry of the Amendment is proper under 37 C.F.R. §1.116 because the Amendment: a) places the application in condition for allowance for the reasons discussed herein; b) does not raise any new issue requiring further search and/or consideration because the Amendment amplifies issues previously discussed throughout prosecution; c) does not present any additional claims without canceling a corresponding number of finally rejected claims; and d) places the application in better form for appeal, should an Appeal be necessary. The Amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. The amendments to the subject claims do not incorporate any new subject matter into the claims. Thus, entry of the Amendment is respectfully requested.

Claim 1 is rejected under 35 U.S.C. 103(a) as unpatentable over Ishiwata et al. in view of Hasenau and Gerber. The rejection is respectfully traversed.

Claim 1 is canceled and therefore the rejection as applied to this claim is now moot.

Withdrawal of the rejection is respectfully requested.

Claim 2 is rejected under 35 U.S.C. 103(a) as unpatentable over Ishiwata et al. in view of Hasenau and Gerber as applied to claim 1 and further in view of Farnworth et al.. The rejection is respectfully traversed.

In prior art, the blade defect detecting means comprising light emitting and light receiving elements is arranged outside of the cutting means having a rotary blade.

On the other hand, in the present invention, blade defect detecting means (26) comprising light emitting and light receiving elements (26a, 26b) is arranged on the side of the annular hub (24a or 61a) of each rotary blade (24 or 61) as described in original claim 2, while the annular hub (24a or 61a) is positioned inside of each of the cutting means (20, 21) as described "each spindle has the rotary blade mounted with the annular hub directed inside" in original claim 1, the features of which are now incorporated into claim 2. In other words, the blade defect detecting means (26) is arranged inside of each cutting means (20), i.e. on a side other than another side

of a first rotary blade (24) which another side faces to a second rotary blade (61). Accordingly, the blade defect detecting means (26) is not arranged outside of the cutting means (20), i.e. not between the rotary blades (24 and 61), which teaches us that the adjusting of the blade-to-blade distance may not be interfered by the presence of the blade detecting means (26).

It is respectfully submitted that none of the applied art, alone or in combination, teaches or suggests the features of claim 2. Thus, it is respectfully submitted that one of ordinary skill in the art would not be motivated to combine the features of the applied art because such combination would not result in the claimed invention. As a result, it is respectfully submitted that claim 2 is allowable over the applied art.

The features stated above are described in the specification, page 3, lines 4-6; page 8, lines 12-13 and lines 22-24; and shown in Fig. 3.

Furthermore, it is respectfully submitted that, as stated in the Request for Reconsideration under 37 CFR §1.112 filed on February 9, 2004, Hasenau is inapplicable art. Applicant hereby incorporates by reference all the reasons set forth in the Request for Reconsideration as to why Hasenau is inapplicable art.

Analogous art, according to Federal Circuit cases, is all art that is *either* in the field of technology of the claimed invention *or* deals with the same problem solved by the claimed invention even though outside the field of technology of the invention. The determination that a reference is from nonanalogous art is twofold. First, it is decided if a reference is within the field of the inventor's endeavor. If it is not, it is determined whether the reference is reasonably pertinent to the particular problem with which the inventor is involved. It is respectfully submitted that Hasenau is not within the field of the inventor's endeavor nor is it a reference reasonably pertinent to the particular problem with which the inventor is involved. For this additional reason, it is respectfully submitted that claim 2 is allowable over the applied art.

For this additional reason, it is respectfully submitted that claim 2 is allowable over the applied art.

Withdrawal of the rejection is respectfully requested.

Furthermore, all of the features recited herein have already been examined by the Examiner. Thus, none of the amendments that claim 2 includes features that require further search and/or consideration.

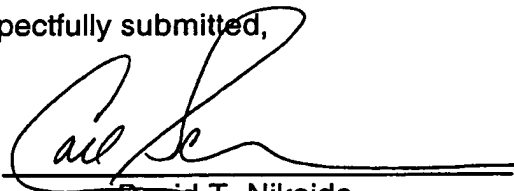
In view of the foregoing, reconsideration of the application and allowance of the pending claims are respectfully requested. Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

Should additional fees be necessary in connection with the filing of this paper or if a Petition for Extension of Time is required for timely acceptance of the same, the Commissioner is hereby authorized to charge Deposit Account No. 18-0013 for any such fees and Applicant(s) hereby petition for such extension of time.

Respectfully submitted,

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